

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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ESMIN JOHNSON,

Plaintiff.

against

Docket #: 1:20-cv-10589

THE STOP & SHOP
SUPERMARKET COMPANY LLC,

Defendant.
-----X

PETITION FOR REMOVAL

1. THE STOP & SHOP SUPERMARKET COMPANY LLC, is a defendant in a civil action commenced in the SUPREME COURT OF THE STATE OF NEW YORK, COUNTY OF BRONX, bearing Index number 31210/2020E. A copy of the Summons and Complaint is attached hereto as Exhibit "A".
2. THE STOP & SHOP SUPERMARKET COMPANY LLC, is domiciled in, and hence a citizen of the State of Delaware under whose corporate laws it was founded and operates and has its principal place of business in the Commonwealth of Massachusetts.
3. Specifically concerning the issue of diversity, The Stop & Shop Supermarket Company LLC, is a Delaware limited liability company (not a Delaware corporation). The Stop & Shop Supermarket Company LLC was formerly known as The Stop & Shop Supermarket Company (a Delaware corporation). Pursuant to a Certificate of Conversion that was filed with the Delaware Secretary of State, The Stop & Shop Supermarket Company converted its structure from a Delaware corporation to a Delaware limited liability company effective as of April 17, 2004.
4. The sole member of The Stop & Shop Supermarket Company LLC, is Ahold U.S.A., Inc., a Maryland corporation. The sole shareholder of Ahold U.S.A., Inc., is Ahold Americas Holdings, Inc., a Delaware Corporation. The shareholder of Ahold Americas Holdings, Inc., is Ahold U.S.A., B.V., a corporation with its business

address at Piet Heinkade 167-173, 1019 GM Amsterdam, The Netherlands. The sole shareholder of Ahold U.S.A., B.V. is Koninklijke Ahold N.V. (with the same business address). In June 2015, Delhaize Group NV/SA, a public limited liability company incorporated under the laws of Belgium, entered into a merger agreement with Koninklijke Ahold N.V. This, Koninklijke Ahold Delhaize N.V., is a publicly traded company that could be referred to as the "ultimate parent" of The Stop & Shop Supermarket Company LLC.

5. Upon information and belief, plaintiff, ESMIN JOHNSON, resides at 3410 DeReimer Avenue, Apt. 4C, Bronx, New York, 10475, and is a citizen and resident of Bronx County, the State of New York.
6. This action was commenced on or about October 2, 2020, by the purchase of an index number. Thereafter, the Summons and Complaint was forwarded to the New York Secretary of State being received on October 8, 2020. Service of the Summons and Complaint by the New York Secretary of State upon this party, THE STOP & SHOP SUPERMARKET COMPANY LLC, was made on or about November 2, 2020.
7. Significant for the purposes of the jurisdiction of this court is that no monetary amount or ad damnum was included in or set forth in the complaint. Nor was any other writing served by plaintiff upon defendant advising of the actual monetary amount being sought of the defendant.
8. Together with its answer served on November 3, 2020, defendant annexed a demand pursuant to CPLR §3017 requiring such a response as to the monetary amount that is being sought of defendant in this action.
9. Responses to defendant's demands were received from plaintiff's counsel dated November 23, 2020, which set forth a demand for damages, that being in the amount of \$3,000,000.00. Said amount being in excess of the jurisdiction amount set forth as a threshold for diversity purposes. See Exhibit "B".

10. Accordingly, this petition is timely as it was filed pursuant to 28 U.S.C. §1446(b), within 30 days of receipt of plaintiff's demand for monetary damages in this action. The time for filing has not expired.
11. This action is being removed to Federal Court based upon diversity jurisdiction pursuant to 28 U.S.C. §1332(a).
12. As noted above the parties to this action are citizens of different states.
13. This action is therefore one which may be removed to this court pursuant to 28 U.S.C. §1441(a) because this Court has original jurisdiction pursuant to 28 U.S.C. §1332(a).
14. Venue is proper pursuant to 28 U.S.C. §1441(a).
15. Pursuant to 28 U.S.C. §1446(d), this party, THE STOP & SHOP SUPERMARKET COMPANY LLC, has this day, served upon the Clerk of the Supreme Court, Bronx County notification of the filing of this petition. A copy of the Notice of Removal filed in Supreme Court is attached hereto as Exhibit "C".

WHEREFORE, pursuant to this provisions of 28 U.S.C. §§1441 and §§1446 defendant, THE STOP & SHOP SUPERMARKET COMPANY LLC, respectfully requests that this action be removed from the Supreme Court of the State of New York, County of Bronx and henceforth proceed in this Court.

Dated: Mineola, New York
December 15, 2020

THE STOP & SHOP
SUPERMARKET COMPANY LLC

By: *Christine M. Capitulo*

CHRISTINE M. CAPITOLO [CMC9098]
TORINO & BERNSTEIN, P.C.

Attorney for Defendant -

*THE STOP & SHOP
SUPERMARKET COMPANY LLC*

200 Old Country Road, Suite 220

Mineola, NY 11501

(516) 747-4301 Fax: (516) 747-5956

CERTIFICATION

This is to certify that a copy of the foregoing has been mailed, postage prepaid on this December 15, 2020, to:

GREENBERG LAW P.C.
370 Lexington Avenue, Suite 1100,
New York, NY 10017.

Christine M. Capitolo
CHRISTINE M. CAPITOLO

SUPREME COURT; STATE OF NEW YORK
COUNTY OF BRONX

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REMOVAL PETITION

TORINO & BERNSTEIN, P.C.

Attorneys for Defendant
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Our File Number: 001000031085701